

**Centerville Nursing Home and Hospital Workers,  
Local 767, Service Employees International  
Union, AFL-CIO. Cases 1-CA-30105 and 1-  
CA-30511**

October 17, 1994

**DECISION AND ORDER**

BY MEMBERS STEPHENS, DEVANEY, AND COHEN

Upon charges filed by the Union in Case 1-CA-30105 on January 11, 1993, as amended on February 17, 1993, and in Case 1-CA-30511 on May 19, 1993, the General Counsel of the National Labor Relations Board issued a complaint in Case 1-CA-30105 on February 24, 1993, and a complaint in Case 1-CA-30511 on June 21, 1993 against Centerville Nursing Home (the Respondent) alleging that it has violated Section 8(a)(1) and (5) and Section 8(d) of the National Labor Relations Act. On July 2, 1993, the General Counsel issued an order consolidating cases.

The complaints allege that since about January 1, 1993, and since about April 1, 1993, the Respondent has failed and refused to implement contractually mandated wage increases for all employees in the two bargaining units represented by the Union and adjustment of all pay scales for employees in these bargaining units as required by the parties' 1989-1993 collective-bargaining agreement. The Respondent filed an answer to the complaint in Case 1-CA-30105 on March 8, 1993, and an amended answer on June 29, 1993, and an answer to the complaint in Case 1-CA-30511 on June 29, 1993.

On June 20, 1994, the General Counsel filed a Motion for Summary Judgment, with exhibits attached. On June 23, 1994, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response.

The Board has delegated its authority in this proceeding to a three-member panel.

**Ruling on Motion for Summary Judgment**

The Respondent's amended answer in Case 1-CA-30105 admits all the material allegations to the unfair labor practices alleged in the complaint. The answer denies only the supervisory and agency status of "President" Edward M. Lundberg and Administrator Steven Haase, who are not specifically alleged to have committed any unfair labor practice. The Respondent's answer in Case 1-CA-30511 admits all the allegations in the complaint, including the supervisory and agency status of "Owner" Edward M. Lundberg and Administrator Edward Clark.

Because the Respondent has admitted all the material allegations in the complaints in Cases 1-CA-30105 and 1-CA-30511, we find that since about Jan-

uary 1, 1993, and since about April 1, 1993, the Respondent has unlawfully failed and refused to implement contractually mandated wage increases for all employees in the two bargaining units represented by the Union and adjustments of all pay scales for employees in these bargaining units as required by the parties' 1989-1993 collective-bargaining agreement. We conclude that the Respondent has violated Section 8(a)(1) and (5) and Section 8(d) of the Act by this unlawful refusal to bargain.

**FINDINGS OF FACT**

**I. JURISDICTION**

The Respondent, a corporation with an office and place of business in Centerville, Massachusetts, is engaged in the operation of a nursing home. During the calendar year ending December 31, 1992, the Respondent, in the course and conduct of its business operations, derived gross revenues in excess of \$100,000 and purchased and received goods valued in excess of \$5000 at its Centerville Nursing Home directly from points outside the Commonwealth of Massachusetts and from enterprises located within the Commonwealth of Massachusetts, each of which other enterprises had received goods directly from points outside the Commonwealth of Massachusetts. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

**II. ALLEGED UNFAIR LABOR PRACTICES**

On September 2, 1977, the Union was certified as the exclusive bargaining representative of employees in the following two bargaining units which are appropriate for purposes of collective bargaining within the meaning of Section 9(b) of the Act:

**Unit A**

All regular full-time and regular part-time registered nurses employed by the Respondent at its Centerville, Massachusetts location, but excluding all other employees, all office clerical employees, guards and supervisors as defined in the Act.

**Unit B**

All regular service and maintenance employees, including nurses aides, orderlies, dietary employees, housekeepers, activities employees, laundry employees, technical employees, and licensed practical nurses employed by the Employer at its Centerville, Massachusetts location, but excluding all other employees, all office clerical employees, guards and supervisors as defined in the Act.

Since about January 1, 1993, and since about April 1, 1993, the Respondent has failed and refused to im-

plement contractually mandated wage increases for all employees in the two bargaining units represented by the Union and adjustments of all pay scales for employees in these bargaining units as required by the parties' 1989-1993 collective-bargaining agreement. We find that the Respondent's failure and refusal to implement contractually mandated wage increases violated Section 8(a)(1) and (5) and Section 8(d) of the Act.

#### CONCLUSION OF LAW

By failing and refusing since about January 1, 1993, and since about April 1, 1993, to implement contractually mandated wage increases for all employees in the two bargaining units represented by the Union and adjustments of all pay scales for employees in these bargaining units as required by the parties' 1989-1993 collective-bargaining agreement, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and (5) and Section 8(d) and Section 2(6) and (7) of the Act.

#### REMEDY

Having found that the Respondent has violated Section 8(a)(1) and (5) and Section 8(d) of the Act, we shall order that the Respondent cease and desist from engaging in such conduct and to take certain affirmative action to remedy the unfair labor practices committed. We shall order the Respondent to implement the contractually mandated wage increases for all employees in the two bargaining units represented by the Union and adjustments of all pay scales for employees in these bargaining units as required by the parties' 1989-1993 collective-bargaining agreement. We shall also order the Respondent to make whole the employees in the two bargaining units for all losses they sustained as a result of the Respondent's failure to implement the contractually mandated wage increases, with interest as provided in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

#### ORDER

The National Labor Relations Board orders that the Respondent, Centerville Nursing Home, Centerville, Massachusetts, its officers, agents, successors, and assigns, shall

##### 1. Cease and desist from

(a) Failing and refusing to bargain in good faith with the Union, Hospital Workers, Local 767, Service Employees International Union, AFL-CIO, the exclusive bargaining representative of employees in the two bargaining units described below, by failing and refusing since about January 1, 1993, and since about April 1, 1993, to implement contractually mandated wage increases for all employees in the two bargaining units represented by the Union and adjustments of all pay

scales for employees in these bargaining units as required by the parties' 1989-1993 collective-bargaining agreement. The appropriate units are:

##### Unit A

All regular full-time and regular part-time registered nurses employed by the Respondent at its Centerville, Massachusetts location, but excluding all other employees, all office clerical employees, guards and supervisors as defined in the Act.

##### Unit B

All regular service and maintenance employees, including nurses aides, orderlies, dietary employees, housekeepers, activities employees, laundry employees, technical employees, and licensed practical nurses employed by the Employer at its Centerville, Massachusetts location, but excluding all other employees, all office clerical employees, guards and supervisors as defined in the Act.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Implement the contractually mandated wage increases for all employees in the two bargaining units represented by the Union and adjustments of all pay scales for employees in these bargaining units as required by the parties' 1989-1993 collective-bargaining agreement.

(b) Make whole the employees in the two bargaining units for all the losses they sustained as a result of the Respondent's failure to comply with the 1989-1993 collective-bargaining agreement, with interest as provided in the remedy section of the decision.

(c) Preserve and, on request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of this Order.

(d) Post at its facility in Centerville, Massachusetts, copies of the attached notice marked "Appendix."<sup>1</sup> Copies of the notice, on forms provided by the Regional Director for Region 1, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by

<sup>1</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(e) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

Dated, Washington, D.C. October 17, 1994

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James M. Stephens,	Member
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Dennis M. Devaney,	Member
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Charles I. Cohen,	Member
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(SEAL) NATIONAL LABOR RELATIONS BOARD

#### APPENDIX

#### NOTICE TO EMPLOYEES POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT fail and refuse to bargain in good faith with the Union, Hospital Workers, Local 767, Service Employees International Union, AFL-CIO, the exclusive bargaining representative of employees in the two bargaining units described below, by failing and refusing since about January 1, 1993, and since about April 1, 1993, to implement contractually mandated wage increases for all employees in the two bargaining

units represented by the Union and adjustments of all pay scales for employees in these bargaining units as required by the parties' 1989-1993 collective-bargaining agreement. The appropriate units are:

#### Unit A

All regular full-time and regular part-time registered nurses employed by the Employer at its Centerville, Massachusetts location, but excluding all other employees, all office clerical employees, guards and supervisors as defined in the Act.

#### Unit B

All regular service and maintenance employees, including nurses aides, orderlies, dietary employees, housekeepers, activities employees, laundry employees, technical employees, and licensed practical nurses employed by us at our Centerville, Massachusetts location, but excluding all other employees, all office clerical employees, guards and supervisors as defined in the Act.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL implement the contractually mandated wage increases for all employees in the two bargaining units represented by the Union and adjustments of all pay scales for employees in these bargaining units as required by the parties' 1989-1993 collective-bargaining agreement.

WE WILL make whole the employees in the two bargaining units for all the losses they sustained as a result of the Respondent's failure to comply with the 1989-1993 collective-bargaining agreement, with interest.

CENTERVILLE NURSING HOME